

RANDALL LEE CAYCE, )  
 )  
 Movant, )  
 )  
 v. ) No. 1:05CV65(RWS)  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )

This matter is before the Court upon the motion of Randall Lee Cayce to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 [Doc. #1].

Movant pled guilty to one count of selling, distributing, or distributing cocaine base. See United States v. Cayce, No. 1:01CR18(RWS) (E.D. Mo.). On July 31, 2001, movant was sentenced to 120 months imprisonment, 8 years supervised release, and a \$100 special assessment. Id. Movant did not appeal either his conviction or his sentence. The Court's records indicate that movant has not previously filed a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

Movant alleges that his conviction and sentence are invalid because he was denied effective assistance of counsel.

### Discussion

Title 28 U.S.C. § 2255 now provides that a one-year period of limitations applies to § 2255 motions. Because movant did not appeal his conviction and sentence, he had until approximately August 10, 2002, to file a § 2255 motion.<sup>1</sup> The instant § 2255 motion was not filed until April 23, 2005. Therefore, the instant § 2255 motion is time barred.

In accordance with the foregoing,

**IT IS HEREBY ORDERED** that movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 [Doc. #1] is **DISMISSED**, without prejudice, as time barred.

An appropriate order shall accompany this memorandum and order.

Dated this 20th day of June, 2005.

  
UNITED STATES DISTRICT JUDGE

---

<sup>1</sup>Federal Rule of Appellate Procedure 4(b)(1)(A) provides that movant's notice of appeal had to be filed within 10 days after the entry of the judgment sentencing him.